

State Law Library of Montana
MONTANA LEGISLATIVE HISTORY

Chapter 7 Session L 1983
Bill House 10 Senate _____

History and final status sheet X
Introduced bill X
Fiscal note X
Third reading bill X
Final version of bill X

House Committee on Judiciary

Hearing date(s)* 1-6

Executive action (vote) date(s)* 1-6

Comm. Report 1-6

Floor 2nd reading & vote 1-8

Floor 3rd reading & vote 1-11

Senate Committee on Judiciary

Hearing date(s)* 1-20

Executive action (vote) date(s)* 1-20

Comm. Report 1-20

Floor 2nd reading & vote 1-24

Floor 3rd reading & vote 1-26

Conference or Free Conference Comm. _____ Yes X No

Hearing date(s)* _____

Executive action (vote) date(s)* _____

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? _____ Yes X No

Committee _____ Report _____

NOTES: Providing That the Training Coordinator For County Attorneys May Act
As Special Counsel to a County

Requested by: Joint Subcommittee on Judiciary



Compiled by: rg

Date: 11-16-16 001

2ND READING: 02/11/83, DO PASS, AS AMENDED AYES: 65; NAYS: 26
3RD READING: 02/14/83, DO PASS AYES: 79; NAYS: 13

TRANSMITTED TO SENATE: 2/14/83
REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION: 02/15/83
HEARING: 3/17/83
REPORT: 3/23/83, BE CONCURRED IN
2ND READING: 03/24/83 AYES: 36; NAYS: 8
3RD READING: 03/28/83 AYES: 44; NAYS: 3

RETURNED TO HOUSE: 3/28/83

TRANSMITTED TO GOVERNOR: 4/6/83
SIGNED: 4/8/83, CHAPTER 412

HB 10 -- CURTISS -- PROVIDING THAT THE TRAINING COORDINATOR FOR COUNTY ATTORNEYS MAY
ACT AS SPECIAL COUNSEL TO A COUNTY; REQUIRING THE COUNTY TO PAY FOR THESE SPECIAL
COUNSEL SERVICES; AMENDING SECTION
BY REQUEST OF: THE JOINT SUBCOMMITTEE ON JUDICIARY

INTRODUCED: 01/03/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/03/83
HEARING: 1/6/83
REPORT: 1/6/83, DO PASS
2ND READING: 1/8/83, DO PASS AYES: 93; NAYS: 0
3RD READING: 01/11/83, DO PASS AYES: 94; NAYS: 0

TRANSMITTED TO SENATE: 1/12/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/12/83
HEARING: 1/20/83
REPORT: 01/20/83, BE CONCURRED IN
2ND READING: 01/24/83 AYES: 50; NAYS: 0
3RD READING: 01/26/83 AYES: 46; NAYS: 2

RETURNED TO HOUSE: 1/26/83

TRANSMITTED TO GOVERNOR: 2/1/83
SIGNED: 2/3/83, CHAPTER 7

HB 11 -- PISTORIA, LYNCH, TVEIT, ET AL. -- ALLOCATING \$10 MILLION EACH YEAR FROM COAL
SEVERANCE TAX COLLECTIONS TO HIGHWAYS; AMENDING SECTION ...; AND PROVIDING AN
EFFECTIVE DATE.
BY REQUEST OF: THE JOINT SUBCOMMITTEE ON HIGHWAYS

INTRODUCED: 01/03/83
REFERRED TO COMMITTEE ON TAXATION: 01/03/83
HEARING: 1/7/83
DIED IN COMMITTEE

HB 12 -- QUILICI -- PROHIBITING PARKING A VEHICLE IN A SPACE RESERVED FOR HANDICAPPED
PERSONS UNLESS THE VEHICLE DISPLAYS ENTITLEMENT TO THE PARKING PRIVILEGE; AMENDING
SECTION

INTRODUCED: 01/03/83
REFERRED TO COMMITTEE ON HUMAN SERVICES: 01/03/83
HEARING: 1/10/83
DIED IN COMMITTEE

HOUSE BILL NO. 10

INTRODUCED BY CURTISS

BY REQUEST OF THE JOINT SUBCOMMITTEE ON JUDICIARY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE TRAINING COORDINATOR FOR COUNTY ATTORNEYS MAY ACT AS SPECIAL COUNSEL TO A COUNTY; REQUIRING THE COUNTY TO PAY FOR THESE SPECIAL COUNSEL SERVICES; AMENDING SECTION 44-4-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-4-103, MCA, is amended to read:

"44-4-103. Functions. The training coordinator shall

perform the functions assigned by the attorney general. The functions may include but are not limited to the following:

(1) providing local training in current aspects of the criminal law for county attorneys and other law enforcement personnel;

(2) assisting in developing and disseminating standards, procedures, and policies which will insure that criminal laws are applied consistently and uniformly throughout Montana;

(3) consolidating present and past information on important aspects of the criminal law and providing a pool of official opinions, legal briefs, and other relevant criminal law information;

(4) providing assistance with research, briefs, or other technical services requested by a county attorney or law enforcement official;

(5) applying for and disbursing federal funds available to aid the prosecutorial functions; and

~~(6) as provided in [section 2], acting as special counsel."~~

NEW SECTION. Section 2. Request for special counsel services. (1) Except as provided in subsection (2), the training coordinator may act as special counsel upon request of the county attorney with the approval of the governing body of a county.

(2) If a case involves the prosecution of a member of the governing body of a county or a person related to him by consanguinity within the fourth degree or affinity within the second degree, the coordinator may, with the consent of the attorney general, act as special counsel upon request of the county attorney without approval of the governing body of the county.

NEW SECTION. Section 3. County payment for special counsel services. Whenever the training coordinator acts as special counsel as provided in [section 2], the department of justice shall charge the county a reasonable hourly fee for the training coordinator's services. Upon receipt of payment for these services, the department shall deposit

1 these funds into the state general fund.

2 NEW SECTION. Section 4. Codification instruction.

3 Sections 2 and 3 are intended to be codified as integral
4 parts of Title 44, chapter 4, part 1, and the provisions of
5 Title 44, chapter 4, part 1, apply to sections 2 and 3.

-End-

STATE OF MONTANA

REQUEST NO. 022-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 10 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 10 provides that the Training Coordinator for county attorneys may act as special council to a county; and requires the county to pay for these special counsel services.

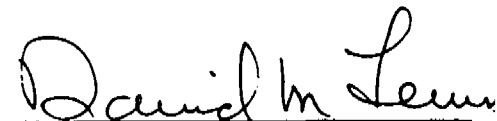
FISCAL IMPACT:

None.

LOCAL IMPACT:

The Training Coordinator operates out of the County Prosecutors program. This program has supplied special counsel to counties for several years, charging \$30 per hour for the service. It is anticipated this service will continue at status quo for the coming biennium causing no additional impact to local governments.

FISCAL NOTE2:U/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-11-83

005

STATUS SHEET

HOUSE JUDICIARY COMMITTEE

48th Legislature

HOUSE

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
3	To disapprove part of the Supreme Crt. rule on disqualification & substitution of judges that allows each party 2 substitutions of a judge.	1/3/83	Rep. Curtiss	1/11/83	Do Not Pass	1/12/83
10	Providing the training coordinator for county attorneys may act as special counsel to a county, etc.	1/3/83	Rep. Curtiss	1/6/83	Do Pass	1/6/83
13	Requiring the training coordinator for county attorneys to prepare and distribute a checklist of legal errors, etc.	1/3/83	Rep. Curtiss	1/6/83	Do Pass	1/6/83
15	To make retroactive & prospective the presumption that reference to a provision of the MCA is a reference to that provision, etc.	1/3/83	Rep. Ramirez	1/5/83	Do Pass	1/5/83
27	To amend Montana's Codification of the UCC providing there are no implied warranties that certified agr. seed is disease free	1/3/83	Rep. Koehnke	1/12/83	Do Pass as Amended	1/13/83
44	To give a supplier of dated goods that are rotated in inventory an interest in the goods higher in priority than creditors.	1/3/83	Rep. Harper	1/12/83	Tabled 1/14/83	

MINUTES OF THE JUDICIARY COMMITTEE
January 6, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Brown. All members were present except Rep. Kennerly, who was excused. Brenda Desmond, Legislative Council, was present.

HOUSE BILL 10

REP. CURTISS, sponsor, stated this bill's purpose is to provide that the training coordinator for county attorneys may act as special counsel to a county and that the county would be required to pay for the special counsel's services. EXHIBIT A.

W. G. GILBERT, III, Beaverhead County Attorney, was a proponent of the bill. GILBERT stated most county attorneys work part-time in this capacity; because of that they have interests in other areas. This bill deals with the problem of handling criminal prosecutions of people who are related to county commissioners. Since the commissioners approve budgets and other matters of the county attorneys, it can be a difficult situation when the county attorney must prosecute relatives of the commissioners. It interferes with the working relationship of the county commissioners and the county attorney.

GILBERT further stated it would be easier if the county attorney could refer the case to another attorney for prosecution. The bill would give the county attorney the opportunity to avoid a difficult situation.

MARC RACICOT, Training Coordinator for the County Attorneys, was also a proponent. He stated he has been involved with situations involving criminal investigations of county commissioners. It does not happen very often. In one instance, however, commissioners in Deer Lodge County were being investigated but had received advice from the county attorney concerning their activities. This created a possible conflict of interest for the county attorney.

RACICOT also stated there is no specific authorization to have any other state agency or county attorney to come in and do the work and be paid for it.

JOHN MAYNARD, Assistant Attorney General, stated his office is in favor of the bill.

ALEC HANSEN, Montana League of Cities and Towns, stated he was also in favor of the bill. HANSEN requested, however, that the committee amend the bill to include city attorneys

on page 1, section 1, line 16; and on part 4, line 2. HANSEN felt the County Attorney Training Coordinator's training and information services should also be made available to the city attorneys.

There were no further proponents.

There were no opponents.

REP. JAN BROWN asked if there would be more work for the County Attorney Training Coordinator providing training for city attorneys were added to his duties. RACICOT replied there may be some extra expenses involved. Attorneys are now required to attend three training sessions a year. There has been plenty of room in the past for additional attorneys to attend the sessions. There would be an increase in mailing and production costs.

REP. EUDAILY asked if the bill's title would have to be amended if the city attorneys were added to the bill. HANSEN replied he was just concerned that city attorneys be allowed to obtain available training. RACICOT felt the title would have to be amended.

REP. SEIFERT asked if county attorneys can call in outsiders to prosecute cases if there is a conflict of interest. RACICOT replied yes.

REP. ADDY asked if a similar problem exists when an accused is related to the county attorney. GILBERT replied the issue of the bill is payment for a special prosecutor's services where one may not be able to obtain the consent of the commissioners. A county attorney can excuse himself from a case if a member of his family is involved.

RACICOT stated the bill does not mandate that the county attorney call only the Attorney General's office for a special prosecution.

REP. SPAETH referred to section 3 of the bill concerning the reasonable fee involved. RACICOT replied the current fiscal year fee is \$30.00 per hour.

There were no further questions on House Bill 10.

HOUSE BILL 13

REP. CURTISS, sponsor, stated this bill would require the training coordinator for county attorneys to prepare and

Judiciary Committee
January 6, 1983
Page 4

HOUSE BILL 10

REP. ADDY moved House Bill 10 DO PASS. REP. SEIFERT seconded the motion.

REP. DAILY moved the bill be amended as follows: page 1, section 1, line 16 after "attorney" insert ", city attorney," and section 4, line 2, after "attorney" insert ", city attorney". REP. DAILY also moved that the bill's title be amended to reflect the change.

REP. RAMIREZ stated he was against the amendment because he felt it was not within the bill's purpose. The burden of payment would be on the county attorneys.

REP. CURTISS was also against the amendment stating she was not contacted about the amendment prior to presenting the bill to the committee.

REP. HANNAH asked if the amendment would reflect self-governing cities such as Butte and Billings which are not run by a mayor. CHAIRMAN BROWN asked witness RACICOT to respond. RACICOT stated that some laws that apply to cities under a mayor system do not apply to cities under the self-governing system. He believed that virtually all the hearings go to the county attorney.

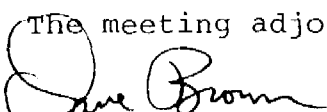
A roll call vote was taken on the amendment. Representatives D. BROWN, ADDY, DAILY, FARRIS and VELEBER voted in favor of the motion. Representatives BERGENE, J. BROWN, CURTISS, DARKO, EUDAILY, HANNAH, IVERSON, JENSEN, KEYSER, RAMIREZ, SCHYE, SEIFERT and SPAETH voted against the motion. The amendment failed 13 to 5. REP. KENNERLY did not vote.

A roll call vote was taken on the original motion of DO PASS. All representatives voted in favor of the motion except REP. KENNERLY, who was absent.

CHAIRMAN BROWN informed the committee of a list of committee bills the Task Force on Corrections developed. The bills need sponsors. CHAIRMAN BROWN encouraged the committee members to review the list to see if they would consider either sponsoring one of the bills or to have a committee bill.

The next meeting is scheduled for Monday, January 10, 1983. Bills to be heard are House Bill 53, House Bill 61 and House Bill 71.

The meeting adjourned at 8:52 a.m.


DAVE BROWN, Chairman


Maureen Richardson, Secretary

009

ROLL CALL VOTE -----

JUDICIARY

COMMITTEE

	Date: 1/6 No: HB 13 Do Pass	Date: 1/6 No: HB 10 Amendment	Date: 1/6 No: HB 10 Do Pass	Date: No:	Date No:	Date No:	Date: No:
BROWN, Dave	Yes	Yes	Yes				
ADDY, Kelly	Yes	Yes	Yes				
BERGENE, Toni	Yes	No	Yes				
BROWN, Jan	Yes	No	Yes				
CURTISS, Aubyn	Yes	No	Yes				
DAILY, Fritz	Yes	Yes	Yes				
DARKO, Paula	Yes	No	Yes				
EUDAILY, Ralph	Yes	No	Yes				
FARRIS, Carol	Yes	Yes	Yes				
HANNAH, Tom	Yes	No	Yes				
IVERSON, Dennis	Yes	No	Yes				
JENSEN, James	Yes	No	Yes				
KENNERLY, Roland	-	-	-				
KEYSER, Kerry	Yes	No	Yes				
RAMIREZ, Jack	Yes	No	Yes				
SCHYE, Ted	Yes	No	Yes				
SEIFERT, Carl	Yes	No	Yes				
SPAETH, Gary	Yes	No	Yes				
VELEBER, Dennis	Yes	Yes	Yes				
	18 - 0	5 - 13	18 - 0				

HOUSE BILL 10

EXHIBIT H
HB 10 1/6/83

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE - FOR THE RECORD I AM
AUBYN CURITSS, DISTRICT 20 REPRESENTATIVE.

MR. CHAIRMAN, THE PUBLIC IN RECENT YEARS HAS BECOME INCREASINGLY
CRITICAL OF MONTANA'S COURTS AND THE ENTIRE JUSTICE SYSTEM. MOST
OF THAT CRITICISM STEMS FROM FRUSTRATION OVER COSTS OF PROSECUTING
INDIVIDUAL CASES TIME AFTER TIME AND ^{a system} WHICH PERMITS APPEAL AFTER
APPEAL TO BE BROUGHT WITHOUT ANY FINAL DISPOSITION BEING MADE.

TOO OFTEN WE HEAR THAT TIME AND THE SYSTEM AID ONLY OFFENDERS WHILE
THE PUBLIC CONTINUES TO BE VICTIMIZED.

PASSAGE OF SJR30 AND HJR 2 PROMPTED THE 47TH LEGISLATURE TO
ESTABLISH AN INTERIM JOINT SUBCOMMITTEE ON JUDICIARY TO STUDY
FACTORS RESPONSIBLE FOR DELAYS AND INEFFICIENCY IN THE CRIMINAL
JUSTICE SYSTEM AND REPORT ITS FINDINGS TO THIS LEGISLATIVE BODY.

THE TWO BILLS SUBMITTED FOR YOUR CONSIDERATION TODAY ARE DISCUSSED
IN THE INTERIM REPORTS WHICH HAVE BEEN PLACED ON YOUR DESKS.

HOUSE BILL 10 PROVIDES THAT THE TRAINING COORDINATOR FOR COUNTY
ATTORNEYS MAY ACT AS SPECIAL COUNSEL TO COUNTIES UPON REQUEST OF
THE GOVERNING BODIES. IN RARE INSTANCES WHERE A MEMBER OF THE
GOVERNING BODY OR HIS RELATIVE IS INVOLVED, THE COORDINATOR MAY,
WITH THE CONSENT OF THE ATTORNEY GENERAL, ACT AS SPECIAL COUNSEL
UPON REQUEST OF THE COUNTY ATTORNEY.

SOME MONTANA COUNTIES WITH SMALLER POPULATIONS AND LIMITED RESOURCES
ARE OFTEN TIMES CONFRONTED WITH THE NECESSITY OF PROSECUTING COMPLEX
CASES WHICH THEY HAVE NEITHER THE PERSONNEL OR CAPABILITY TO
DO ADEQUATELY.

HOUSE BILL 10 PROVIDES STATUTORILY FOR A FUNCTION THAT THE TRAINING COORDINATOR IS ALREADY PERFORMING AND EXTENDS THE OPTION OF REQUESTING A SPECIAL PROSECUTOR TO THE COUNTY PROSECUTOR AS WELL AS THE GOVERNING BODY.

GIVEN THE REINFORCEMENT AND RESOURCES OF THE COORDINATOR'S OFFICE, COUNTY PROSECUTORS WOULD HAVE AVAILABLE TO THEM DATA AND EXPERTISE TO ENABLE THEM TO DO THEIR JOBS MORE EFFICIENTLY AND EXPEDITIOUSLY. BETTER, MORE COMPREHENSIVE CASE PREPARATION ELIMINATES MUCH POTENTIAL FOR ERROR WHICH RESULTS IN SUBSEQUENT APPEALS. ANY STRENGTHENING OF THE SYSTEM CAN NOT ONLY SAVE DOLLARS, BUT ALSO HELP RESTORE PUBLIC CONFIDENCE.

I URGE THE COMMITTEE TO ACT FAVORABLY ON THIS BILL.

VISITORS' REGISTER

HOUSE

JUDICIARY

COMMITTEE

L

HB 10

Date January 6, 1983

SPONSOR Rep. Curtiss

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

013

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

..... January 6, 19 83

MR. **SPEAKER**

We, your committee on **HOUSE JUDICIARY**

having had under consideration **HOUSE** Bill No. **10**

..... **First** PREPARING COPY (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE TRAINING
COORDINATOR FOR COUNTY ATTORNEYS MAY ACT AS SPECIAL COUNSEL TO
A COUNTY; REQUIRING THE COUNTY TO PAY FOR THESE SPECIAL COUNSEL
SERVICES; AMENDING SECTION 44-4-103, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **10**

DO PASS

SIXTH LEGISLATIVE DAY

Helena, Montana
January 8, 1983

House Chambers
State Capitol

House convened at 8:30 a.m., Mr. Speaker in the Chair. Invocation by the Chaplain, Father Noonan. Pledge of Allegiance to the Flag.

Roll call. All members present except Brand, Fabrega, Howe, Iverson, Seifert, Yardley, excused; Marks, Stobie, absent. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS (Menahan, Chairman):
Correctly printed: HB 20.

1/7/83

FIRST READING AND COMMITMENT OF BILLS AND RESOLUTIONS

The following House bills were introduced, read first time, and referred to committees:

HB 128, introduced by Schye, Metcalf, (By Request of the Department of Health and Environmental Sciences). Referred to Committee on Human Services.

HB 129, introduced by Kitselman. Referred to Committee on Local Government.

HB 130, introduced by Stobie, Jensen, Lory, Underdal, C. Smith, Jones, Asay, Jacobson, Ryan, Hemstad, Hannah, J. Hammond, Menahan, Haffey, McCallum, H. Hammond, Schultz, Seifert, Holliday, Manuel, Eudaily, Donaldson, Curtiss, Ellison, Thoft, Mueller, Abrams, Hanson, Ramirez, Ellerd, Devlin, Switzer, Compton, Winslow, Bengtson, Gage, E. Smith, Sales, Norman, Lynch, Goodover, Harrington. Referred to Committee on Judiciary.

HB 131, introduced by Menahan, Haffey, Keenan, Brand, (By Request of the Department of Military Affairs). Referred to Committee on Appropriations.

HB 132, introduced by Williams, (By Request of the Revenue Oversight Committee). Referred to Committee on Business and Industry.

HB 133, introduced by Williams, (By Request of the Revenue Oversight Committee). Referred to Committee on Taxation.

HB 134, introduced by Williams, (By Request of the Revenue Oversight Committee). Referred to Committee on Business and Industry.

HB 135, introduced by Yardley. Referred to Committee on Natural Resources.

HB 136, introduced by Bardanouve, (By Request of the Office of Budget and Program Planning). Referred to Committee on Appropriations.

HB 137, introduced by Hand. Referred to Committee on Taxation.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Representative Vincent moved that the House resolve itself into a Committee of the Whole, for the consideration of business on second reading. Motion carried. Representative Keyser in the Chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 10 - That HB 10 do pass. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily,

Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Shontz, Smith, Solberg, Spaeth, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Zabrocki.

Total 93

Noes: None.

Total 0

Excused: Brand, Fabrega, Howe, Iverson, Seifert, Yardley.

Total 6

Absent or not voting: Stobie.

Total 1

HB 13 - That HB 13 do pass. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Shontz, Smith, Solberg, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Zabrocki.

Total 92

Noes: None.

Total 0

Excused: Brand, Fabrega, Howe, Iverson, Seifert, Yardley.

Total 6

Absent or not voting: Spaeth, Stobie.

Total 2

Representative Vincent moved that the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the Chair. Chairman Keyser moved the adoption of the committee report. Report adopted. (90-0)

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 2 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Jacobsen, J. Jensen, R. Jensen,

Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 98

Noes: None.
Total 0

Excused: Harrington.
Total 1

Absent or not voting: Switzer.
Total 1

Representative Vincent moved that the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the Chair. Chairman Daily moved the adoption of the committee report. Report adopted. (98-0)

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 10 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Keenan, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Sales, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 94

Noes: None.
Total 0

Excused: Harrington.
Total 1

Absent or not voting: Bliss, Dozier, Kadas, Ryan, Smith.
Total 5

HB 13 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J.

48th

LEGISLATIVE SESSION

COMMITTEE ON Senate Judiciary

House BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
10	1-12-83	1-20-83	1-20-83				1-20-83		
13	1-12-83	1-20-83	1-20-83						1-20-83
15	1-10-83	1-17-83	1-17-83					1-17-83	
24	2-7-83	3-19-83	3-23-83					3-23-83	
27	1-19-83	1-31-83	2-8-83				2-8-83		
42	3-1-83	3-12-83	TABLED						
45	1-17-83	1-26-83	1-26-83				1-26-83		
53	1-14-83	1-25-83	2-10-83					2-10-83	
61	1-14-83	1-25-83	1-25-83				1-25-83		
71	1-14-83	1-25-83	1-25-83				1-25-83		
74	1-18-83	1-26-83	1-26-83						1-26-83
119	1-20-83	2-8-83	3-2-83					3-2-83	
130	2-1-83	3-3-83	3-3-83					3-3-83	
139	1-31-83	3-22-83	3-22-83						3-22-83
143	1-24-83	2-8-83	2-17-83						2-17-83
148	1-24-83	2-8-83	TABLED						

Use a separate sheet for Senate, House Bills, and Resolutions.

1 HOUSE BILL NO. 10
 2 INTRODUCED BY CURTISS
 3 BY REQUEST OF THE JOINT SUBCOMMITTEE ON JUDICIARY
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE
 6 TRAINING COORDINATOR FOR COUNTY ATTORNEYS MAY ACT AS SPECIAL
 7 COUNSEL TO A COUNTY; REQUIRING THE COUNTY TO PAY FOR THESE
 8 SPECIAL COUNSEL SERVICES; AMENDING SECTION 44-4-103, MCA."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 44-4-103, MCA, is amended to read:
 12 "44-4-103. Functions. The training coordinator shall
 13 perform the functions assigned by the attorney general. The
 14 functions may include but are not limited to the following:
 15 (1) providing local training in current aspects of the
 16 criminal law for county attorneys and other law enforcement
 17 personnel;
 18 (2) assisting in developing and disseminating
 19 standards, procedures, and policies which will insure that
 20 criminal laws are applied consistently and uniformly
 21 throughout Montana;
 22 (3) consolidating present and past information on
 23 important aspects of the criminal law and providing a pool
 24 of official opinions, legal briefs, and other relevant
 25 criminal law information;

1 (4) providing assistance with research, briefs, or
 2 other technical services requested by a county attorney or
 3 law enforcement official;
 4 (5) applying for and disbursing federal funds
 5 available to aid the prosecutorial function; and
 6 ~~(6) as provided in [section 2], acting as special~~
 7 ~~counsel."~~
 8 NEW SECTION. Section 2. Request for special counsel
 9 services. (1) Except as provided in subsection (2), the
 10 training coordinator may act as special counsel upon request
 11 of the county attorney with the approval of the governing
 12 body of a county.
 13 (2) If a case involves the prosecution of a member of
 14 the governing body of a county or a person related to him by
 15 consanguinity within the fourth degree or affinity within
 16 the second degree, the coordinator may, with the consent of
 17 the attorney general, act as special counsel upon request of
 18 the county attorney without approval of the governing body
 19 of the county.
 20 NEW SECTION. Section 3. County payment for special
 21 counsel services. Whenever the training coordinator acts as
 22 special counsel as provided in [section 2], the department
 23 of justice shall charge the county a reasonable hourly fee
 24 for the training coordinator's services. Upon receipt of
 25 payment for these services, the department shall deposit

THIRD READING

-2-

AB 10

1 these funds into the state general fund.

2 NEW SECTION. Section 4. Codification instruction.

3 Sections 2 and 3 are intended to be codified as integral

4 parts of Title 44, chapter 4, part 1, and the provisions of

5 Title 44, chapter 4, part 1, apply to sections 2 and 3.

-End-

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 20, 1983

The eleventh meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage on January 20, 1983 at 10:00 a.m. in Room 331, State Capitol.

ROLL CALL: All members were present, except for Senator Daniels who was excused.

CONSIDERATION OF SENATE BILL 114:

Senator Thomas, sponsor of this bill, explained that it is being introduced in order to ensure that articles of personal property and suicide notes can be returned to the decedent's family in the event of an untimely death or suicide. The bill provides that the articles could be held by a state medical examiner or a coroner for investigative purposes or a 90 day period after receipt of the property. Senator Thomas acknowledged the need to amend the bill so as not to impede the investigation process. His intent is merely to establish some procedure for the return of property.

Sarah Harold stated that she requested the drafting of this bill because of her involvement with the Hospice Program at St. Peter's Hospital. She has worked with people in grief and has noted that because they were unable to ascertain the personal belonging of the decedent, their grieving was more intense. She felt there was a definite need to clarify our laws.

Pat Trafton, a psychological social services director with the Hospice Program, and Jim Palmer, a Hospice volunteer, also spoke in support of this bill and distributed Exhibits "A" and "B".

Phyllis Burke, whose husband had committed suicide, shared her experiences with the Committee. She was unable to obtain her husband's suicide note even though there was no investigation. After 9 months, a court order and many hours of attorney time and knocking on doors, she finally was able to have the note returned to her.

Justine Breckenridge, whose son had committed suicide, was also unable to obtain her son's last letter which had been addressed to her. It was very important for her to possess the original letter. She was very supportive of the need for this bill.

Marc Racicot, representing the County Attorney's Association, stated he had looked at the bill from an investigative standpoint. He could understand the delicate situation, but said there were legitimate law enforcement reasons for keeping the decedents' notes. Sometimes suicides turn out to be homicides. He has

choice of words in their amendment. Chuck O'Reilly advised that this is a proper term used by the forensic science statutes meaning "a law enforcement agency."

CONSIDERATION OF SENATE BILL 127:

Senator Hazelbaker, sponsor of this bill, advised the Committee that it was introduced at the request of the Board of Crime Control. The Board has adopted rules for the employment standards and educational requirements to be completed by peace officers, but there is a need to adopt them into the statutes.

Clayton Bain of the Board of Crime Control and proponent of SB127, advised that the County Attorneys have requested that the Board of Crime Control standards for peace officer employment should be converted to state statutes. He also advised the Committee that since the drafting of the bill they see a need for an escape clause which would allow extension of the time requirement for compliance with the standards of the bill.

Bill Ware, representing the Chief of Police Association, supported the bill and agreed with the recommendations for the amendment.

There being no further proponents, and no opponents, the hearing was opened to questions from the Committee.

Chairman Turnage questioned if the enactment of this bill would change the current Board of Crime Control rules in any way. Clayton Bain informed him that the only change was to incorporate a rule that law enforcement people out of service for more than six months must again go through training.

Senator Hazelbaker was very supportive of the Law Enforcement Academy, the work they do there and the need for enactment of this bill.

CONSIDERATION OF HOUSE BILL 10:

Representative Curtiss, sponsor of this bill, presented it to the Committee at the request of the Joint Subcommittee on Judiciary. She explained the critical need for a county attorney training coordinator to act as special counsel to a county in the instances covered by the bill and the need for the provision requiring the county to pay for these special counsel services.

Marc Racicot, representing the County Attorney's Association, advised that he was available to answer questions from the Committee. He stated that the attorney general can currently provide services, but this bill would formalize that. He especially thought this bill would be helpful to a county attorney when a conflict of interests arises.

There being no further proponents, and no opponents, hearing on HB10 was closed.

CONSIDERATION OF HOUSE BILL 13:

Representative Curtiss, sponsor of the bill, advised that it was being introduced at the request of the Subcommittee on Judiciary. The Subcommittee felt that a checklist of legal errors or objections, which would be updated on a regular basis by the training coordinator for county attorneys, would be helpful in reducing errors and promote efficiency. This checklist would apply only to capital cases. She also emphasized that failure of the coordinator to use a checklist would not serve as a basis for appeals.

Marc Racicot, representing the County Attorney's Association, spoke as a proponent to this bill. He felt that the checklist would be a good triggering mechanism. He did advise that it would be necessary to hire a half-time attorney to help with the functions of preparing and updating the checklist.

Wes Krawczyk of the American Civil Liberties Union informed the Committee that he supported the concept of this bill.

There being no further proponents, and no opponents, the hearing was opened to questions from the Committee.

Senator Crippen voiced his disapproval of the state spending money for the defendant; he didn't see a need for HB13. Marc Racicot restated his support for giving assistance to county attorneys.

Chairman Turnage felt that the intentions of this bill were already covered in Section 44-4-403, MCA.

Representative Curtiss closed by citing several instances where the implementation of a checklist would have been beneficial to the expeditious disposition of cases. She stated that nobody is infalible and a checklist could help by giving direction and strengthen the system.

There being no further discussion by the Committee, hearing on HB13 was then closed.

The Chairman announced that the Committee was now ready to take executive action on several bills which had been previously heard.

DISPOSITION OF SENATE BILL 127:

SB127 was further discussed by the Committee. Senator Hazelbaker

again explained the need for the already existing rules of the Board of Crime Control to be adopted into Montana statutes. The need for an amendment to cover the time requirement for extensions was again discussed. Senator Berg moved for the adoption of the proposed amendment. This motion passed unanimously. Senator Berg then moved that SB127 DO PASS AS AMENDED. This motion also passed unanimously.

DISPOSITION OF SENATE BILL 65: The Committee counsel explained the proposed amendment covering restitution cases. The maximum time for suspension or deferral of a sentence would be increased when restitution is ordered. Senator Crippen moved to adopt the amendment as proposed. This motion passed unanimously. Senator Halligan moved that SB65 DO PASS AS AMENDED. This motion also passed unanimously.

DISPOSITION OF SENATE BILL 78: It was the consensus of the Committee that SB78 would address the world, but create more problems. Senator Crippen moved that SB78 DO NOT PASS. This motion carried seven to two with Senators Galt and Berg voting in opposition.

DISPOSITION OF HOUSE BILL 13: Senator Crippen moved that HB13 NOT BE CONCURRED IN. Senator Halligan questioned the possibility of an amendment as he felt the idea of a checklist could be significantly helpful. Senator Mazurek noted that the idea of a checklist could be carried through without the adoption of this bill. It was the consensus of the Committee that the intent of HB13 could be accomplished under the authority contained in Section 44-4-103. Senator Crippen's motion that the bill NOT BE CONCURRED IN carried seven to two with Senator Mazurek and Shaw voting in opposition.

DISPOSITION OF HOUSE BILL 10: Senator Brown moved that HB10 BE CONCURRED IN. This motion carried unanimously.

FURTHER CONSIDERATION OF SENATE BILL 114: The Committee again discussed the intent of SB114. They questioned how you could legislate common sense. The Committee then referred the bill to Committee counsel to review the amendments as proposed by the sponsors. They felt the decedent's property should be returned "upon request of the bereaved."

FURTHER CONSIDERATION OF SENATE BILL 93: The Committee discussed amendments for staggered terms of the board members and the restriction that only law enforcement be capable of accessing the information. Committee Counsel advised the Committee of the results of his research. This bill would be subject to existing law. The advisory board and its powers were again discussed. It was then decided that the needed changes should be communicated to Senator VanValkenburg for his opinions.

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983

Date 1-20-83

NAME	PRESENT	ABSENT	EXCUSED
	✓		
<u>Berg, Harry K. (D)</u>	✓		
<u>Brown, Bob (R)</u>			
<u>Crippen, Bruce D. (R)</u>	✓		
<u>Daniels, M. K. (D)</u>			✓
<u>Galt, Jack E. (R)</u>	✓		
<u>Halligan, Mike (D)</u>	✓		
<u>Hazelbaker, Frank W. (R)</u>	✓		
<u>Mazurek, Joseph P. (D)</u>	✓		
<u>Shaw, James N. (R)</u>	✓		
<u>Turnage, Jean A. (R)</u>	✓		

STANDING COMMITTEE REPORT

January 20

19 83

PRESIDENT

MR.

JUDICIARY

We, your committee on

House

having had under consideration Bill No.

10

Curtiss

House

Respectfully report as follows: That Bill No.

10

(Third Reading)

BE CONCURRED IN

~~XXXXX~~
~~DO PASS~~

Total 0

HB 10 - That HB 10 be concurred in. Motion carried as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.

Total 50

Noes: None.

Total 0

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Senator Hazelbaker moved that the committee rise and report. Motion carried. Committee arose. Senate resumed. Mr. President in the Chair. Chairman Halligan moved the adoption of the committee report. Report adopted.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 10 passed as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.

Total 49

Noes: None.

Total 0

Excused: None.

Total 0

Absent or not voting: Thomas.

Total 1

SB 82 passed as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.

Total 50

Noes: None.

Absent or not voting: None.

Total 0

SB 149 passed as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.

Total 49

Noes: None.

Total 0

Excused: Galt.

Total 1

Absent or not voting: None.

Total 0

SB 151 passed as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Goodover, Graham, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.

Total 48

Noes: None.

Total 0

Excused: Galt.

Total 1

Absent or not voting: Haffey.

Total 1

SB 160 passed as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.

Total 48

Noes: Shaw.

Total 1

Excused: Galt.

Total 1

Absent or not voting: None.

Total 0

HB 10 concurred in as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Van Valkenburg.

Total 46

Noes: Goodover, Tveit.

Total 2

Excused: Galt.

Total 1

Absent or not voting: Mr. President.

Total 1

SJR 7 passed as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.

Total 49

Noes: None.

Total 0

Excused: Galt.

Total 1

Absent or not voting: None.

Total 0

ANNOUNCEMENT OF COMMITTEE MEETINGS

Announcements of committee meetings were made.

Upon motion of Senator Hazelbaker, duly carried, the Senate adjourned at 3:40 p.m., until Thursday, January 27, 1983, at the hour of 3:00 p.m.

STAN STEPHENS
President of the Senate

JOHN W. LARSON
Secretary of the Senate

HOUSE BILL NO. 10

INTRODUCED BY CURTISS

BY REQUEST OF THE JOINT SUBCOMMITTEE ON JUDICIARY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE TRAINING COORDINATOR FOR COUNTY ATTORNEYS MAY ACT AS SPECIAL COUNSEL TO A COUNTY; REQUIRING THE COUNTY TO PAY FOR THESE SPECIAL COUNSEL SERVICES; AMENDING SECTION 44-4-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-4-103, MCA, is amended to read:

"44-4-103. Functions. The training coordinator shall perform the functions assigned by the attorney general. The functions may include but are not limited to the following:

(1) providing local training in current aspects of the criminal law for county attorneys and other law enforcement personnel;

(2) assisting in developing and disseminating standards, procedures, and policies which will insure that criminal laws are applied consistently and uniformly throughout Montana;

(3) consolidating present and past information on important aspects of the criminal law and providing a pool of official opinions, legal briefs, and other relevant criminal law information;

(4) providing assistance with research, briefs, or other technical services requested by a county attorney or law enforcement official;

(5) applying for and disbursing federal funds available to aid the prosecutorial functions; and

~~(6) as provided in [section 2], acting as special counsel."~~

NEW SECTION. Section 2. Request for special counsel services. (1) Except as provided in subsection (2), the training coordinator may act as special counsel upon request of the county attorney with the approval of the governing body of a county.

(2) If a case involves the prosecution of a member of the governing body of a county or a person related to him by consanguinity within the fourth degree or affinity within the second degree, the coordinator may, with the consent of the attorney general, act as special counsel upon request of the county attorney without approval of the governing body of the county.

NEW SECTION. Section 3. County payment for special counsel services. Whenever the training coordinator acts as special counsel as provided in [section 2], the department of justice shall charge the county a reasonable hourly fee for the training coordinator's services. Upon receipt of payment for these services, the department shall deposit

1 these funds into the state general fund.
2 NEW SECTION. Section 4. Codification instruction.
3 Sections 2 and 3 are intended to be codified as integral
4 parts of Title 44, chapter 4, part 1, and the provisions of
5 Title 44, chapter 4, part 1, apply to sections 2 and 3.

-End-